

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 3:22-cr-00058-MMD-CSD-1

Plaintiff,

ORDER

v.

ADREAL WADLEY,

Defendant.

I. SUMMARY

Defendant Adreal Wadley was indicted on a single count of felon in possession of a firearm. (ECF No. 1.) Wadley now moves to suppress the evidence the government has collected against him.¹ (ECF No. 41 (“Motion”).) He argues that his Fourth Amendment rights were violated in multiple ways warranting suppression when Sparks Police Department (“SPD”) Detectives Canterbury and Radley seized him and ultimately searched his car outside the Nugget Casino in Sparks, Nevada. (*Id.*) The Court held an evidentiary hearing on the Motion during which Detectives Canterbury and Radley testified. (ECF No. 59 (“Hearing”).) As further explained below, the Court agrees with the government that SPD officers had reasonable suspicion to seize Wadley and that the seizure constituted an investigatory stop rather than an arrest. The Court further finds that even if the officers lacked reasonable suspicion for the seizure, evidence from Wadley’s car is admissible under the attenuation and inevitable discovery doctrines because the officers identified a valid warrant for Wadley’s arrest during their investigation.

¹The government filed a response (ECF No. 48), and Defendant filed a reply (ECF No. 50). The Court issued a minute order denying the Motion (ECF No. 60), and now issues this written order to explain its reasoning.

1 **II. FINDINGS OF FACT²**

2 The Court relies on the evidence admitted at the Hearing—including video
3 recordings of relevant body camera and security camera footage—along with Detective
4 Canterbury and Detective Radley’s testimony at the Hearing, to construct this factual
5 background.³ The Court also notes that it only makes factual findings pertinent to the legal
6 discussion that follows.

7 **A. SPD Patrol**

8 Detective Canterbury testified that he is employed as a detective for the SPD
9 Regional Crime Suppression Unit. He has worked at SPD for four years. In June 2022, at
10 the time of his encounter with Wadley, Detective Canterbury was on assignment as an
11 SPD patrol officer. In this role, he was familiar with the streets surrounding the Nugget
12 Casino.

13 During the afternoon of June 20, 2022, while patrolling solo in a marked SUV,
14 Detective Canterbury received a call through dispatch with information about a robbery
15 that had occurred shortly before 4:00 p.m. at the RTC Transit Center. (Government’s Exh.
16 5 at 2.) The RTC Transit Center is a bus station located within roughly half a mile of the
17 Nugget, to the west of the casino. The bus station is identified as “RTC Centennial Plaza
18 Station,” directly south of Victorian Avenue, on a google map image of the area admitted
19 at the Hearing.

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25 ²See Fed. R. Crim. P. 12(d) (“When factual issues are involved in deciding a
26 motion, the court must state its essential findings on the record.”).

27 ³References to Exhibits (“Exh(s).”) herein are to exhibits the Court admitted at the
28 Hearing. All other references are to particular CM/ECF filings. The Court refers to
testimony at the Hearing by simply describing it as such.



(Government's Exh. 1.) Per the information Detective Canterbury received through dispatch, the robbery suspect was a Black man in his late twenties with a red shirt, blue jeans, and "afro-style" hair. (Government's Exh. 5.) The weapon used in the robbery was a black semi-automatic rifle. Detective Canterbury also learned the suspect was last seen traveling eastbound from the bus station, towards the Nugget. The suspect left on foot, and Detective Canterbury testified that he received no information indicating that any car was involved.

After receiving this report, Detective Canterbury responded in the vicinity of the Nugget, where he began looking for individuals who matched the reported description of the robbery suspect. As part of his canvass, he looked inside vehicles as he drove.

While driving slowly on Victorian Plaza Circle along the east side of the Nugget, Detective Canterbury passed a blue Toyota sedan with a California license plate, stopped on the curb of the street close to a marked entrance to the casino. (Government's Exh. 14.) Casino surveillance footage shows Detective Canterbury's patrol car driving past the

1 Toyota at 4:09 p.m. (*Id.* at 4:09:09.)⁴ The car was one of multiple vehicles in an area
2 frequently used for passenger pick-ups and drop-offs.

3 Detective Canterbury testified that the blue Toyota attracted his attention because
4 it seemed to be parked “cattywampus” rather than parallel to the curb. In particular, the
5 car’s front right wheel was on top of the curb area. As he passed the blue Toyota,
6 Detective Canterbury saw an individual reclined in the driver’s seat who seemed to be
7 watching his patrol car. Detective Canterbury had only a partial view of the individual –
8 later identified as Adreal Wadley—through the closed windows of both his patrol SUV and
9 the sedan. He could see only some of the individual’s head and none of his clothing. He
10 observed that the individual was a Black man and that he seemed to have a “flat-top”
11 hairstyle. He also testified that he believed—from his limited view—that the individual in
12 the car was in the “right age range” of the robbery suspect. Detective Canterbury did not
13 see anyone else in the vehicle or note anything else suspicious in the car at this time.

14 While he did not stop as he first drove past the blue Toyota, Detective Canterbury
15 decided to turn his patrol SUV around to observe the car further. At 4:11 p.m.,
16 Surveillance footage shows Detective Canterbury’s SUV pulling up and stopping behind
17 the Toyota, approaching from the same direction he approached on his first pass by the
18 car.⁵ (Government’s Exh. 14 at 4:11:47.)

19 Detective Canterbury testified that sometime between when he first passed by the
20 Toyota and when he finished his loop back, he made the decision to run the Toyota’s
21 license plate number through the DMV system. He discovered that the vehicle’s

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24 ⁴In this order, the Court cites to relevant footage according to the timestamps on
the upper right-hand corners of each recording.

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26 ⁵Detective Canterbury testified that there are several ways a car can turn around
on Victorian Circle Plaza and that he cannot recall the exact route he took. But he
27 acknowledges that he approached the Toyota the second time from the same direction
he approached the first time— suggesting that he may have gone around the block.
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1 registration had expired.⁶ He stated that he stopped behind the Toyota to “go out on” it—
2 that is, to make contact with the driver—because of the issue with its registration, its illegal
3 parking on the curb, and a potential concern that the man inside was associated with the
4 robbery.

5 By the time he arrived back at the Toyota, however, its occupant had exited and
6 seemed to have disappeared from the area, leaving the car empty.

7 Footage from Detective Canterbury’s body camera, admitted at the Hearing,
8 begins at 4:11 p.m. on the date of the incident, when Detective Canterbury stopped his
9 patrol car behind the now-empty Toyota. (Government’s Exh. 2 at 17:11:11.)⁷ This
10 footage shows Detective Canterbury exiting his patrol car, approaching the Toyota, and
11 beginning to look into its windows. (*Id.* at 17:12:30.) Over his radio, Detective Canterbury
12 noted that the “the vehicle [was] now unoccupied” and asked for SPD to “contact Nugget”
13 to see if there was video of the person in the car, to “see if he matches.” (*Id.* at 17:12:35-
14 17:13:31.) He walked to the left side of the car to look in the driver-side window, noting
15 over the radio that the vehicle had previously been occupied by one Black male adult and
16 stating, “it looks like there’s an AK on the floorboard.” (*Id.* at 17:12:35-17:13:31.) For the
17 next several minutes, Detective Canterbury continued to peer in the windows of the
18 Toyota and walk around the area. (*Id.* at 17:13:31-17:15:30.) He also reported the license
19 plate number and the vehicle’s location aloud over his radio. (*Id.*)

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22 ⁶While Detective Canterbury testified that while he could not remember the exact
23 time or location at which he made the decision to run the license plate number through
24 the system, he was aware that the car’s registration was expired by the time he stepped
25 out of his patrol SUV.

26 ⁷Detective Canterbury testified that all timestamps on the footage from his body
27 camera (Government’s Exh. 2), his front dash camera recording (Government’s Exh. 3),
28 and his rear seat camera (Government’s Exh. 4) are one hour fast. For example, his body
camera recording shows an inaccurate starting timestamp of 17:11:11, while the actual
time was 16:11:11. For ease of reference, the Court will cite to the timestamps as they
appear on the recordings in the government’s Exhibits 2, 3, and 4. However, when it
describes a time in its factual findings, it will refer to the correct hour.

1 Detective Canterbury's testimony at the Hearing aligns with his body camera
2 footage. He testified that when he looked inside the Toyota's windows, he saw an AK-
3 style pistol facing upwards, directly beside the driver's seat flush against the floorboard.
4 The gun on the floorboard had a distinctive wood front. He also saw a Glock magazine,
5 marijuana shavings, and a clear, unlabeled container with blue pills he could not identify.

6 **B. K-9 Alert**

7 At 4:15 p.m., a second officer—Detective Radley—arrived at the scene in another
8 marked SPD patrol SUV. (Government's Exh. 14 at 17:15:30.) Before he retired in
9 December 2023 and at the time of Wadley's arrest, Detective Radley was a K-9 officer at
10 SPD. A K-9 dog, Rox, was inside Detective Radley's patrol car when he arrived at the
11 Nugget.⁸

12 When Detective Radley got out of his SUV, Detective Canterbury told him that a
13 Black man had exited the Toyota and that Detective Canterbury had not seen the man
14 except to identify that he had flat-top-style hair. (*Id.* at 17:15:30-17:16:53.) Detective
15 Canterbury also asked over his radio whether there had been any luck contacting Nugget
16 security. (*Id.* at 17:15:30-17:16:53.) He further explained, "I drove past him, I ran the
17 plate...I flipped around, and by the time I flipped around, he was already out, I didn't even
18 see where he went." (*Id.* at 17:16:57-17:17:04.) And he added, "I don't know if [the car's
19 driver] is your guy or not because he was slouched so far back." (*Id.* at 17:17:30-
20 17:17:50.) Detective Canterbury next checked if the door to the Toyota was locked,
21 commenting that "if it's not [locked] we've got a public safety hazard." (*Id.* at 17:19:24 -
22 17:18:58.) The car's doors were in fact locked. (*Id.*)

23 At 4:18 p.m., Detective Radley brought his K-9, Rox, out of his SUV, and the dog
24 began sniffing the Toyota. (*Id.* at 17:18:11-17:20:05.) Rox signaled a positive alert on the
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27 ⁸Detective Canterbury testified that Detective Radley was called to the scene
28 primarily as general backup, because SPD practice is to respond with two units of officers
available in the area. The fact that Detective Radley was a k-9 officer was coincidental.

1 vehicle. (*Id.*) Detective Canterbury testified that the officers decided to “run the K-9”
 2 around the car because they observed pills and a firearm inside, and wanted to see if
 3 illegal substances were involved. Detective Canterbury further testified that he was
 4 familiar with the specific K-9 Rox, and familiar “generally” with the things SPD’s K-9s are
 5 trained to detect.⁹ While he did not know exactly what Rox was trained to alert on, he was
 6 aware that Rox was trained to detect “illegal substances” and narcotics.

7 **C. Nugget Casino Security**

8 Shortly after Rox alerted on the car, Nugget security officer Andrew Trott arrived.
 9 (Government’s Exh. 2 at 17:21:19-17:23:43.) Detective Canterbury again described the
 10 Toyota’s driver, this time stating he had an “ice cube” or “Ice T” hairstyle. (*Id.*) When asked
 11 whether the individual was associated with the robbery, Detective Canterbury said,
 12 “unknown; possibly.” (*Id.*) Trott relayed information about the car to surveillance inside
 13 the casino over his radio. (*Id.*) And based on information he received back in his earpiece,
 14 he told the SPD detectives that the Toyota’s driver had been identified inside the Nugget,
 15 was wearing all green clothes, and had a bag with him. After hearing this description,
 16 Detective Canterbury responded, “ok, so I want to go talk with *that* guy.” (*Id.*) Detective
 17 Canterbury testified that he did not know exactly how Nugget surveillance identified and

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 20 ⁹During cross-examination, defense counsel asked Detective Canterbury if the K-
 21 9 was trained to alert on three specific kinds of drugs. Detective Canterbury responded
 22 that he did not know the specifics of the drugs the SPD’s K-9s are trained to hit on. He
 23 stated that he knew the dogs were trained to detect illegal controlled substances. He later
 24 stated that he knew SPD K-9s are not trained to detect marijuana, as he also told Wadley
 25 at the time Wadley was apprehended. During Detective Radley’s testimony and cross-
 26 examination at the Hearing, K9 certification and training records for Rox were admitted,
 27 documenting Rox’s certifications from 2016, 2017, 2019, 2020, and 2022 (*after* Wadley’s
 28 arrest in June). (Government’s Exh. 9.) The records indicate that Rox received testing as
 to the detection of methamphetamine, cocaine, and heroin. (*Id.*) SPD’s K-9 policy was
 also admitted. (Defendant’s Exh. 510.) The policy standard operating procedures provide
 that “K-9 teams will train together nine (9) hours a week” and “[a]t least one day a month
 will be dedicated to narcotic detection” (*Id.* at 10.) In addition, the policy requires that
 “[t]he K-9 teams will be tested once a year to the California POST standards.” (*Id.* at 11.)

1 tracked Wadley, but that Trott had advised him that Wadley had been “backtracked” from
2 the car into the Nugget.

3 Detectives Canterbury and Radley discussed whether back-up was available to
4 wait with the car while they tracked its driver, commenting that they did not think any other
5 SPD units were currently available. (*Id.*) On his radio, Detective Canterbury requested a
6 tow of the blue Toyota to the station. (*Id.*)

7 Trott next told Detectives Canterbury and Radley—again repeating what he heard
8 in his earpiece—that the Toyota’s driver had walked past the cage inside the casino and
9 was heading towards the “Victorian doors.” (*Id.* at 17:23:43-17:25:49.) Detective
10 Canterbury commented, “I want to get this guy wrapped up if I can” and “he’s running
11 around with a gun.” (*Id.*)

12 Detective Canterbury testified that at this time, he wanted to “detain” the Toyota
13 driver because when one gun is identified, he had been trained not to assume that no
14 other guns are involved. The K-9 alert also caused him to believe there were possible
15 drug-related crimes. In addition, Detective Canterbury testified that he found Wadley’s
16 movements through the casino suspicious. The Toyota was parked on the east side of
17 the Nugget. Developing information from casino security suggested to him that the driver
18 had walked through the entirety of the Nugget, towards the cage, back in the direction of
19 the Toyota, and then to the *other* side of the Nugget to leave out of the Victorian Avenue
20 northside exit. He believed Wadley was attempting to avoid contact with law enforcement.

21 Finally, Detective Canterbury believed it was still unknown whether Wadley was
22 related to the robbery and thus that there was a “potential public safety hazard.” Detective
23 Canterbury acknowledged, however, that he knew by this time that the hair of the
24 individual in the car did not match the description of the robbery suspect and was aware
25 that the car’s driver was wearing all green. On cross-examination, he stated that he based
26 his decision to seize the individual in the car “partially” on the fact that Wadley was a
27 Black man, as well as on his age, the gun, and the possible drugs in the Toyota.

1 Officers Canterbury and Radley drove to the location where they believed Wadley
2 had exited the casino, per the information they received from Nugget security.
3 (Government's Exh. 2 at 17:25:30-17:25:40.)

4 **D. Seizure of Wadley**

5 The Court describes the encounter between Wadley and Detectives Canterbury
6 and Radley in segments, followed by timestamps identifying the beginning and end of
7 each segment as captured in the recording from Detective Canterbury's body camera.
8 The entire encounter—from the beginning of the stop to the time when SPD officers
9 reported an official arrest—lasted from 4:26 p.m. to 4:38 p.m., or roughly 12 minutes.

10 **1. Initial stop and frisks¹⁰**

11 At 4:26 p.m., in their SPD vehicles, the officers saw Wadley—who they believed
12 matched Nugget security's description of the Toyota driver—walking on the street.¹¹
13 Wadley was wearing an all-green track suit and a green hat, with a purse over his
14 shoulder. He was of small build and had dreadlocks. Upon seeing Wadley, Detective
15 Canterbury activated the overhead red and blue lights on his patrol SUV. He did not
16 activate his siren. He opened his driver's door, pointed his gun, and said loudly, "show
17 me your hands, come here." Detective Radley also had his gun pointed at Wadley.
18 Detective Canterbury asked Wadley to come towards him, and then to stop, turn around,
19 and get down on his knees, put his hands on top of his head, and interlace his fingers.
20 Wadley complied with each of these commands. When Detective Canterbury reached
21 Wadley, he said, "we'll tell you what's going on here in just a second" and handcuffed
22 him. Detective Canterbury then told him, "you're just detained right now, okay? ...hold on,

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24 ¹⁰The following occurred between 4:26 p.m. and 4:30 p.m. (Government's Exh. 2
25 at 17:26:43-17:30:15.)

26 ¹¹At the Hearing, Detective Canterbury identified the location at which the officers
27 stopped Wadley on the admitted google map overview of the area. (Government's Exh.
28 1.) The stop occurred north of Victorian Avenue—close to the ATM designated by a gray
 emblem—and west of the area marked "Nugget Event Center." (Id.)

1 don't stand up my man, you're just detained." (Government's Exh. 2 at 17:26:43-
2 17:28:15.)

3 While Wadley was on his knees, Detective Canterbury asked, "are you associated
4 with that vehicle over there?" and Wadley responded, "I'm not, I was just driving it, it's my
5 friend's." Wadley did not ask which vehicle Detective Canterbury meant. Detective
6 Canterbury, who had started to pat down Wadley's pockets, asked if Wadley had
7 "anything on him." Wadley denied having anything other than weed. Detective Canterbury
8 opened Wadley's purse, stating "I'm just making sure, because there's an AK on the
9 floorboard." Wadley again stated that the vehicle belonged to his friend. Both detectives
10 were holding Wadley's arm. (*Id.*)

11 At the Hearing, Detective Canterbury testified that he considered his seizure of
12 Wadley a "high-risk stop." He stated that SPD officers conduct a high-risk stop involving
13 drawn weapons when they approach anyone who is likely have weapons themselves or
14 has potentially committed a violent crime, or when there is a higher-than-usual safety
15 concern. SPD officers then "gauge compliance." Detective Canterbury testified that he
16 drew his gun for "[his] own safety, [his] partner's safety, and the public's safety" because
17 he was investigating a possible narcotics-related offense in which a gun had already been
18 observed and in which it remained unknown if other guns were involved. Detective
19 Canterbury also testified that he handcuffed Wadley for similar safety reasons and that in
20 such circumstances SPD officers' practice is to initially detain an individual.

21 The detectives brought Wadley to Detective Canterbury's patrol car. Wadley stated
22 he had been planning to text his friend because the officers had "pulled up and searched
23 his [friend's] car." (Government's Exh. 2 at 17:28:15-17:30:15.)

24 At the patrol SUV, Detective Canterbury again frisked Wadley, patting down his
25 pockets and reaching in his jacket pocket. Meanwhile, Wadley emphasized that officers
26 would not find anything in the Toyota. Detective Canterbury told Wadley that he had
27 stopped him because of the "AK on the floorboard" and the dog's alert. Detective
28

1 Canterbury told Wadley again that he was “just detained” and read him his *Miranda* rights.
 2 (*Id.*)

3 **2. Identification¹²**

4 Detective Canterbury asked Wadley for identification and found his ID in a wallet
 5 inside the purse, after Wadley consented to its retrieval. Detective Canterbury gave the
 6 ID to Detective Radley to run a wants and warrants check. Detective Canterbury asked
 7 Wadley if there was “anything he should be concerned about,” including any warrants,
 8 and Wadley denied having anything to report.¹³ (*Id.* at 17:30:15-17:31:35.)

9 Detective Canterbury asked Wadley additional questions about the car. Wadley
 10 again stated that car and gun belonged to his friend. Wadley insisted that the officers had
 11 no justification to search his friend’s car, to which Detective Canterbury replied, “we do—
 12 his dog alerted, that’s probable cause to search the car.” Detective Canterbury told
 13 Wadley that he could assist officers and Wadley interjected, “I can’t do it, it’s not my car .
 14 . . I tried to call him [my friend].” (*Id.* at 17:30:15-17:31:35.)

15 **3. Return to Toyota¹⁴**

16 Outside his patrol SUV, Detective Canterbury told Wadley “Here’s what I’m going
 17 to do...because we kind of have only so many officers right now, you’re not under arrest
 18 you’re only detained, I’m going to have you sit in the back of the car right now.” Detective
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22 ¹²The following occurred between 4:30 p.m. and 4:31 p.m. (Government’s Exh. 2
 23 at 17:30:15-17:31:35.)

24 ¹³At the Hearing, Detective Canterbury testified that asking for identification is his
 25 standard practice as an SPD officer when an individual is detained, and that the purpose
 26 of asking for identification is to find out if the individual has any active warrants or a history
 of violence.

27 ¹⁴The following occurred between 4:31 p.m. and 4:34 p.m. (Government’s Exh. 2
 28 at 17:31:35-17:34:19.)

1 Canterbury then put Wadley in the back of the patrol vehicle, still in handcuffs.¹⁵ Detective
 2 Canterbury also said to Wadley, “The other way you can get out of this car quicker is if
 3 you’re ok with me driving you back over to where the car is, because I don’t want to leave
 4 my partner or anybody else over there alone. Is that ok?” Wadley responded in the
 5 affirmative. (*Id.* at 17:31:35-17:34:19.)

6 Around this time, Detective Radley also asked Detective Canterbury if the man
 7 they had seized was the person he had seen previously, and Detective Canterbury
 8 replied, equivocating, “I will see, his hair . . .”.¹⁶ Detective Canterbury also took Wadley’s
 9 phone, after it seemed that Wadley was attempting to make a call.¹⁷ After seizing the
 10 phone and while still in possession of Wadley’s purse, Detective Canterbury drove the
 11 patrol SUV back to park behind the Toyota. (*Id.*)

12 **4. Discovery of Warrant and Search of Purse¹⁸**

13 Once his patrol SUV arrived back at the Toyota, Detective Canterbury stopped the
 14 vehicle and asked Wadley to stand in front of it. (*Id.* at 17:34:19-17:36:20.)

15 Detective Canterbury testified that at 4:34 p.m. —within roughly one minute of the
 16 return to the Toyota—Officers received communication from SPD dispatch responding to

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 19 ¹⁵Detective Canterbury testified that he knew by this time that Wadley was not
 20 armed and that he put Wadley in the back of the car because he believed that he would
 have “better control” of Wadley as he continued his investigation without backup.

21 ¹⁶Detective Canterbury testified at the Hearing that at this time, although he could
 22 not be 100% sure that Wadley was the person he saw in the Toyota, he was “pretty
 confident” that Wadley was the driver because Wadley had already told officers as much.

23 ¹⁷Detective Canterbury testified that it is not typical to take a detained person’s
 24 phone initially. But that it is a “case-dependent” practice to take a detained person’s phone
 25 when they making a phone call, because it is not known who they are calling or if they
 26 might be calling someone to ask for assistance or asking someone else to come to the
 scene.

27 ¹⁸The following occurred between 4:24 p.m. and 4:36 p.m. (Government’s Exh. 2
 at 17:34:19-17:36:20.)

1 Detective Radley's requested wants and warrants check. At this time, dispatch advised
2 that Wadley had an extraditable felony warrant out of Mississippi. The SPD Computer
3 Aided Dispatch ("CAD") log admitted into evidence at the Hearing includes logged entry
4 at 4:34:24 pm. with a comment, "Adreal F-Frank full ex for parole viol out of MS."
5 (Government's Ex. 5 at 4.) At 4:34:27, another log entry, attached to Detective
6 Canterbury's call number, contains the comment, "confirm warrant." (*Id.*)

7 Detective Canterbury asked how much weed Wadley had in his purse and, when
8 asked if officers could check the amount, Wadley consented to search of the bag.
9 Detective Canterbury opened the purse, pulling out a bag of marijuana before continuing
10 to search in other pockets. He next pulled out an unmarked orange pill bottle, which he
11 opened. Wadley stated that the bottle contained his prescription Xanax and that the
12 prescription itself was at his house. Detective Canterbury continued searching the purse
13 and ultimately pulled out every item inside – which also included receipts and a bottle of
14 liquor. (Government's Exh. 2 at 17:34:19-17:36:20.)

15 Detective Canterbury next took off Wadley's green hat to look at his hair. The
16 exchange continued and Wadley said that when the patrol car first passed by the Toyota,
17 he had "just pulled up," before going into the casino to put in a bet. He also added that he
18 "called [his friend] to tell him the police had pulled passed his car." (*Id.* at 17:34:19-
19 17:36:20.)

20 **5. Car key search and confirmation of warrant¹⁹**

21 Detective Canterbury asked if Wadley had the keys to the car. After Wadley
22 equivocated, Detective Canterbury asked, "Do you mind if I check and make sure you
23 don't have the keys on you?" at which point Wadley said that he did have a key in his
24 pocket, but that it was for something else. When Detective Canterbury found a Toyota
25 key, Wadley told him, "you can't search the car." (*Id.* at 17:36:20-17:36:53.)

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27 ¹⁹The following occurred at 4:36 p.m. (Government's Exh. 2 at 17:36:20-17:36:53.)
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1 Detective Canterbury told Wadley that the officers were going to search the car
2 because of the K-9 alert, and Wadley stated again that he did not know anything in the
3 car. Detective Canterbury moved Wadley back into the seat of his SUV. He then told
4 Detective Radley, as well as a third officer who had arrived at the scene, that “when he
5 [Wadley] took off his hat . . . it wasn’t as flat as I remember it . . .but it’s flat here and goes
6 back and he has the dreads . . . that’s exactly what I saw when I drove by.” (*Id.*)

7 Detective Canterbury also commented to the other officers at 4:37 p.m., “we’ve
8 been working on that warrant and criminal history on him.” (*Id.*) He testified that he was
9 referring to the previous request to confirm the warrant and that when SPD dispatch gets
10 a warrant, they contact the originating agency to verify that it remains a valid warrant.
11 Detective Canterbury testified that officers do not rely only on the NCIC system when it
12 indicates that a warrant exists, because some warrants on that system might be left in
13 error.

14 Detective Canterbury further testified that the warrant for Wadley stood out to him
15 because it was for a parole violation. He believed that if a person is on parole, it generally
16 means they have been convicted of a felony-level crime and have been to prison to serve
17 part of their sentence. He felt this was significant because there was a gun in plain view
18 on the floorboard of the car, and that felon in possession of a firearm was a potential
19 crime he was investigating.

20 Body camera footage shows Detective Radley, listening to his radio, stating at
21 4:38:03 p.m., “warrant’s confirmed, 1095.” (Government’s Exh. 2 at 17:36:20-17:36:53.)
22 The CAD log entry at 4:38:09 p.m. includes the comment “YR Received—Warrant
23 confirmed.”²⁰ (Government’s Exh. 5 at 4.) The CAD log also includes an entry at 4:38:05
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27 ²⁰The warrant for Wadley’s arrest, although not viewed by officers at the scene,
28 was valid and admitted into evidence at the Hearing. (Government’s Exh. 7.)

1 p.m. with the code "1095." (*Id.*) Detective Canterbury testified that "1095" is the code SPD
 2 uses for an arrest. SPD thus officially recorded an arrest at 4:38 p.m.

3 **E. Search and Tow of Blue Toyota**

4 After Wadley was officially placed under arrest, Detective Canterbury used the key
 5 he took from Wadley to open the car, and the SPD officers searched the Toyota.
 6 (Government's Exh. 2 at 17:38:21.) Detective Canterbury testified that the gun and pills
 7 among the items taken from the vehicle were the ones he had seen through the window
 8 earlier that afternoon.

9 The blue Toyota was ultimately towed. Detective Canterbury testified that it was
 10 towed because Wadley had been arrested, and because the car had expired registration
 11 on a roadway and was parked illegally. Wadley was not the registered owner of the car
 12 and Detective Canterbury made no attempts to contact the registered owner. The SPD
 13 Vehicle Inventory and Tow Policy effective in 2022 was admitted into evidence at the
 14 Hearing. (Government's Exh. 8.)²¹

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 18 ²¹Section 7.20.05 of the policy lists the policy for impoundment following arrest: "A.
 19 If the driver of a motor vehicle has been arrested, the vehicle shall usually be impounded
 20 . . . B. A vehicle inventory search and a 'Vehicle Inventory Report' form shall be completed
 21 for vehicles impounded after arrest." (Government's Exh. 8 at 3.) Section 7.20.02
 22 describes inventory searches and states, in part: "A. An inventory search of the contents
 23 of all vehicles impounded shall be conducted by the officer or police assistant . . . 1. The
 24 inventory shall be conducted prior to releasing the vehicle to the tow truck operator, if
 25 feasible . . . 2. The inventory search shall extend to all areas within the vehicle where
 26 personal property is ordinarily stored so long as access can be gained without forcible
 27 entry and/or, excessive or unnecessary destruction . . . 3. All inventoried items must be
 28 recorded on the 'Vehicle Inventory Report' Form" (*Id.* at 2.) Section 7.20.06 sets out
 the policy regarding impoundment for parking violations: "A. In cases where vehicles are
 illegally parked, every reasonable effort shall be made to contact the registered owner
 and have the vehicle moved. It is within an officer's and police assistants' discretion to
 issue a citation for a parking violation. Instances when vehicles may be impounded
 include, but are not limited to: 1. Registration violations . . . 4. Blocking of a street or
 roadway; or, 5. When the vehicle poses a threat to public health or safety. B. A 'Vehicle
 Inventory Report' form shall be completed for vehicles impounded for a parking violation."
 (*Id.* at 4.)

III. DISCUSSION

The Court first finds, as a threshold matter, that Wadley has standing to challenge the search of the blue Toyota. It then turns to the nature of Wadley's seizure, finding that the detention was an investigatory stop—rather than a *de facto* arrest—and that the investigatory stop was supported by reasonable suspicion. Finally, the Court finds that even if officers lacked reasonable suspicion to stop Wadley, the evidence is nevertheless admissible because the discovery of an outstanding warrant for Wadley's arrest attenuated any violation and because the evidence in the Toyota would have been inevitably discovered.

A. Standing

As a preliminary issue, the Court addresses the government's argument that Defendant lacks standing to challenge the search of the Toyota because he physically relinquished the car and disclaimed ownership—thereby abandoning it. (ECF No. 48 at 7.) The government specifically emphasizes that Wadley was not the car's registered owner, he intentionally separated himself from the car when he saw police driving by, and he further distanced himself when he saw police return to the car. (*Id.* at 8.) The government also points to Wadley's own repeated comments to SPD officers that the car and its contents belonged to his friend. (*Id.* at 8-9.) Defendant counters that neither walking away from a parked vehicle nor merely stating that one does not own an item amounts to abandonment. (ECF No. 50 at 12-13.) The Court agrees with Defendant and finds that he has standing to challenge the search.

"[T]he demonstration of a legitimate expectation of privacy 'is a threshold standing requirement, and analysis cannot proceed further without its establishment.'" *United States v. Singleton*, 987 F.2d 1444, 1449 (9th Cir. 1993) (quoting *United States v. Cruz-Jimenez*, 894 F.2d 1, 5 (1st Cir.1990)). When a person voluntarily abandons property, they lack standing to later challenge its search. *See United States v. Nordling*, 804 F.2d 1466, 1469-70 (9th Cir.1986). Abandonment is a "question of intent" in which "[t]he inquiry

1 should focus on whether, through words, acts or other objective indications, a person has
2 relinquished a reasonable expectation of privacy in the property at the time of the search
3 or seizure.” *Id* at 1469. Denial of ownership and physical relinquishment are important
4 factors in this abandonment inquiry. *See id*. However, “none of [the Ninth Circuit’s]
5 ‘abandonment’ cases has held that mere disavowal of ownership, without more,
6 constitutes abandonment of a person’s reasonable expectation of privacy in that
7 property.” *United States v. Lopez-Cruz*, 730 F.3d 803, 809 (9th Cir. 2013). *See also*
8 *United States v. Baker*, 58 F.4th 1109, 1119 (9th Cir. 2023) (“[A]n individual does not
9 relinquish a possessory interest in an item merely by stating he does not own the item.”).

10 The Court finds that Wadley did not physically relinquish the blue Toyota merely
11 by parking it and leaving it to enter the Nugget, regardless of his subsequent movements
12 within the casino. Ninth Circuit precedent—including the precedent cited by the
13 government—does not support the proposition that a driver who parks their car and
14 leaves it locked, by doing so, indicates their intent to relinquish possession. (ECF No. 50
15 at 13.) Such a driver generally still plans to reassert physical control over a parked vehicle;
16 Wadley did not leave the Toyota in such a way that it was “virtually certain” to be
17 searched. *See Nordling*, 804 F.2d at 1469-70 (finding that a defendant relinquished a
18 reasonable expectation of privacy in a tote bag left on an aircraft when he repeatedly
19 denied having carry-on baggage and left the bag where anyone could access it, making
20 it “virtually certain that the bag would be opened . . . before he could possibly attempt to
21 reassert physical control”).

22 Moreover, Wadley’s comments to Detective Canterbury do not indicate
23 abandonment. Although Wadley stated that the car and its contents belonged to his
24 friend, Wadley did not disavow *connection* to the blue Toyota, in fact readily
25 acknowledging to officers that he was the driver. *See United States v. Huffhines*, 967 F.2d
26 314, 318 (9th Cir. 1992) (finding that a defendant lacked standing because he “disavowed
27 any connection” to a searched vehicle, stating that he knew nothing about it); *Lopez-Cruz*,
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1 730 F.3d at 809 (finding that a defendant did not abandon cell phones, even though he
2 stated they belonged to a friend, because he made no “affirmative denial of any
3 association with the phones”). Wadley also repeatedly stated that he was *himself*
4 opposed to any search of the car. He told Detective Canterbury when he found the key,
5 for example, “you can’t search [the car]” (Government’s Exh. 2 at 17:36:20-17:36:53), and
6 he told officers he had been on the phone with his friend (*id.* at 17:30:15-17:31:35).

7 The government seems to imply that Detective Canterbury could have
8 extrapolated, based on what he knew at the time, that Wadley had no privacy interest in
9 the car. (ECF No. 48 at 8-9.) However, Detective Canterbury clearly treated Wadley as if
10 he had a possessory interest in the vehicle throughout the seizure—he asked a series of
11 questions about the contents of the car and pried for permission to search for the key.
12 (Government’s Exh. 2 at 17:36:20-17:36:53.) See *Lopez-Cruz*, 730 F.3d at 809 (noting
13 that the fact an agent sought permission before searching a cell phone they knew did not
14 belong to a defendant “suggest[ed] that the agent did not believe that [the defendant] had
15 abandoned his privacy interest in the phone”).

16 In sum, while Wadley exited the blue Toyota and later said it belonged to his friend,
17 he did not abandon the car. He maintained that he was associated with the car and
18 opposed to any search. The Court thus finds that Wadley had a reasonable expectation
19 of privacy in the Toyota and has standing under the Fourth Amendment to challenge its
20 search.

21 **B. Nature of the Seizure**

22 Before evaluating the constitutionality of the SPD officers’ conduct as a whole, the
23 Court first considers the nature of Wadley’s seizure. There is no dispute that Wadley was
24 seized when officers exited their patrol SUVs with guns pointed. (ECF No. 48 at 11-15.)
25 Defendant argues, however, that the interaction amounted to a *de facto* arrest “from the
26 moment Officer Canterbury ordered [Wadley] to stop” —and thus required probable cause
27 to be constitutionally valid. (ECF No. 41 at 8.) The government argues that the detention
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1 was an investigatory stop—requiring a lower threshold of reasonable suspicion under
2 *Terry v. Ohio*, 392 U.S. 1 (1968) —and that Wadley was not placed under arrest until after
3 his warrant was discovered and confirmed. (ECF No. 48 at 13-15.)

4 An investigatory detention is a brief seizure by police based on reasonable
5 suspicion of criminal activity, during which police may stop an individual, question him
6 briefly, and perform a limited frisk for weapons without converting the seizure into an
7 arrest. *See Terry*, 392 U.S. at 22-26. When evaluating whether a seizure constitutes an
8 investigatory stop or a *de facto* arrest, the Court must consider the totality of the
9 circumstances, including “the aggressiveness of the police methods and how much the
10 [individual’s] liberty was restricted[,]” and “the justification for the use of such tactics, i.e.,
11 whether the officer had sufficient basis to fear for his safety to warrant the intrusiveness
12 of the action taken.” *Washington v. Lambert*, 98 F.3d 1181, 1185 (9th Cir. 1996). *See also*
13 *U.S. v. Edwards*, 761 F.3d 977, 981 (9th Cir. 2014).

14 In considering the aggressiveness of police action, the Ninth Circuit instructs courts
15 to consider whether the individual was handcuffed, whether the police drew their guns,
16 and the number of officers present. *See Washington*, 98 F.3d at 1188-89. *See also Green*
17 *v. City & Cnty. of S.F.*, 751 F.3d 1039, 1047 (9th Cir. 2014) (noting that the number of
18 police officers present is highly relevant). And in evaluating the degree of restriction on
19 an individual’s liberty, the Ninth Circuit has “only allowed the use of especially intrusive
20 means of effecting a stop in special circumstances, such as 1) where the suspect is
21 uncooperative or takes action at the scene that raises a reasonable possibility of danger
22 or flight; 2) where the police have information that the suspect is currently armed; 3) where
23 the stop closely follows a violent crime; and 4) where the police have information that a
24 crime that may involve violence is about to occur.” *Washington*, 98 F.3d at 1189.

25 Courts may also “consider the specificity of the information that leads the officers
26 to suspect that the individuals they intend to question are the actual suspects being
27 sought as well as the specificity of the information that the persons actually being sought
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1 are likely to forcibly resist police interrogation.” *Id.* at 1189-90. “While these considerations
2 are not exhaustive, they all inform the ultimate inquiry of whether the officers’ conduct
3 was a reasonable response to legitimate safety concerns on the part of the investigating
4 officers” because “[t]he relevant inquiry is always one of reasonableness under the
5 circumstances.” *Id.* at 1185, 1185-90 (quoting *Allen v. City of Los Angeles*, 66 F.3d 1052,
6 1057 (9th Cir.1995)).

7 During a *Terry* stop, a police officer may take reasonable measures to mitigate the
8 risk of physical harm and to determine whether the person is armed. *See United States*
9 *v. Hensley*, 469 U.S. 221, 234-35 (1985); *Terry*, 392 U.S. at 24. *See also United States*
10 *v. Buffington*, 815 F.2d 1292, 1300 (9th Cir. 1987) (“The use of force . . . does not convert
11 the [investigatory] stop into an arrest if it occurs under circumstances justifying fears for
12 personal safety.”).

13 Here, the Court finds that because circumstances justified concern over safety and
14 over the possibility that Wadley would attempt to leave the scene, tactics used by SPD
15 officers were not so unreasonably aggressive as to convert the seizure from a *Terry* stop
16 to an arrest. Centrally, the Court finds Detective Canterbury’s testimony on the “high-risk”
17 nature of the stop credible. The SPD officers knew that there was a firearm in the blue
18 Toyota. While Defendant argues that the officers had no reason to believe that Wadley
19 was armed (ECF No. 50 at 9-10), the officers could have reasonably been concerned that
20 the driver of the car might have another firearm on his person, especially because they
21 knew Wadley had a bag with him (Government’s Exh. 2 at 17:21:19-17:23:43). Detective
22 Canterbury testified that, per SPD training, the discovery of one firearm does not alleviate
23 the concern that an individual might have other firearms. Moreover, the officers believed
24 Wadley had previously left through the Nugget through the Victorian Avenue exit in an
25 attempt to avoid contact with law enforcement. (*Id.* at 17:23:43-17:25:49.) *See*
26 *Washington*, 98 F.3d at 1189 (discussing, as a factor, that restraints that would otherwise
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1 be intrusive may be acceptable when a defendant “takes action at the scene that raises
2 a reasonable possibility of danger or flight”).

3 In this context, the officers were justified in believing that the stop merited extra
4 safety precautions—although only briefly—to gauge Wadley’s compliance.²² As reflected
5 in body camera and audio recordings, the first seconds of the interaction, albeit intense,
6 are largely consistent with this goal. Detective Canterbury testified that both he and
7 Detective Radley drew their guns, that his patrol car lights were flashing, and that he did
8 not activate his siren. Detective Canterbury’s first command to Wadley was “show me
9 your hands, come here” before a series of commands directing Wadley to get on his
10 knees and keep his hands accessible. (Government’s Exh. 2 at 17:26:43-17:28:15.) The
11 officers’ weapons were drawn only during the first few moments of the stop—before
12 Wadley was handcuffed. (*Id.*) When Wadley complied with Detective Canterbury’s initial
13 commands, the detectives put away their weapons and moved to less aggressive
14 language. (*Id.*) And after the officers approached Wadley and handcuffed him, they did
15 not take out their guns through the rest of the encounter. *See also United States v. Parr*,
16 843 F.2d 1228 (9th Cir. 1988) (finding no arrest occurred when a defendant was searched
17 and put in a patrol car); *United States v. Bautista*, 684 F.2d 1286 (9th Cir. 1982) (finding
18 no arrest occurred when officers handcuffed individuals accused of bank robbery).

19 The Court notes, here, that at the time of the stop SPD officers were aware that
20 Wadley did not match the description of the robbery suspect. (ECF No. 41 at 9;
21 (Government’s Exh. 2 at 17:21:19-17:23:43.) Thus, taken alone, the Court agrees with
22 Defendant that the occurrence of the robbery does not justify an aggressive or highly
23 intrusive stop. But the Court considers the robbery as only one part of the totality of the
24 circumstances analysis—the firearm in the car, combined with the possible narcotics in
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27 ²²The analysis of officers’ justification for conducting a high-risk stop necessarily
28 overlaps with the discussion of reasonable suspicion that follows in the section below.
The Court thus considers facts discussed in each section in tandem.

1 the car, are separate justifications for caution. Defendant also argues that the officers
2 could not confirm that Wadley was the driver of the vehicle when they seized him. See
3 *Washington*, 98 F.3d at 1189 (directing courts to consider specificity). But Detective
4 Canterbury testified that he knew Nugget security had “backtracked” the driver of the
5 Toyota, and Trott had provided a clear description of his clothing and his expected
6 location. While Detective Canterbury’s body camera footage shows him hesitating to
7 unequivocally state that Wadley was the Toyota’s driver after he was seized (“Is that the
8 guy you saw?”... “I’ll have to see, his hair...” (Government’s Exh. 2 at 17:30:15-17:31:35),
9 Detective Canterbury testified at the Hearing that he was “confident” at the time that
10 Wadley was the driver of the car. This confidence was supported by the fact that, after
11 the seizure began, Wadley was immediately aware that the Detectives were referring to
12 the blue Toyota when they began to question him about the car. (*Id.* at 17:26:43-
13 17:28:15.)

14 The Court further finds that the restrictions imposed on Wadley’s liberty were not
15 unreasonably intrusive, either at the beginning of the interaction or as the interaction
16 continued at Detective Radley’s patrol car and at the blue Toyota. Once an individual has
17 been frisked and found to be unarmed, police restraint tactics must be calibrated
18 accordingly. See *United States v. Del Vizo*, 918 F.2d 821, 825 (9th Cir. 1990) (finding
19 officers’ restraining tactics unreasonable when there was no evidence that the defendant
20 failed to comply or that he was “particularly dangerous, especially once he had stepped
21 out of the van, had been frisked, and was lying on the ground”). While the Court thus
22 recognizes that Detectives’ decision not to remove Wadley’s handcuffs *after* frisking him
23 rests on weaker justification than their initial decision to handcuff him and frisk him, it
24 ultimately finds that the level of restraint was reasonable. The total time Wadley spent in
25 handcuffs before the discovery of a warrant for his arrest was comparatively short—less
26 than twelve minutes. Compare *Courson v. McMillian*, 939 F.2d 1479, 1492 (11th Cir.
27 1991) (finding that no arrest occurred during a 30-minute detention). For the majority of
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1 this time, after an initial frisk while he was on his knees, Wadley was standing beside the
2 patrol SUV or in the rear seat of the car. *See id.*; *United States v. Jacobs*, 715 F.2d 1343,
3 1345-46 (9th Cir. 1983) (defendant ordered to “prone out”). Detective Canterbury testified,
4 consistent with comments audible his body camera recording (Government’s Exh. 2 at
5 17:21:19-17:23:43), that back-up SPD units were unavailable in the area at the time,
6 adding to concerns about officer safety and contributing to his decision to make Wadley
7 sit in the back of his patrol car. Wadley consented to driving with officers to the blue
8 Toyota (*id.* at 17:31:35-17:34:19), and removing the handcuffs immediately prior to the
9 short drive might have further contributed to safety concerns.

10 Finally, the ultimate inquiry for a Fourth Amendment challenge is whether the
11 officers’ conduct was a *reasonable* response to legitimate safety concerns. *See Heien v.*
12 *North Carolina*, 574 U.S. 54, 60 (2014) (quoting *Riley v. California*, 573 U.S. 134 (2014))
13 (“[W]e have repeatedly affirmed, ‘the ultimate touchstone of the Fourth Amendment is
14 reasonableness’”). While some factors support a finding that a *de facto* arrest occurred—
15 Wadley was immediately cooperative with Detectives, he remained handcuffed after
16 officers determined that he was unarmed, and he did not match the description of the
17 robbery suspect to support an intrusive stop under the past-violent-crime factor—the
18 specific circumstances of the case weigh against such a finding. To the extent that
19 Detective Canterbury and Detective Radley’s tactics were intrusive, they were *reasonable*
20 under the specific circumstances of this case. The detectives complied with SPD
21 practices for a high-risk stop, which involves drawing guns, as the interaction began. And
22 the continued restraints were also reasonable in a quickly-developing context where
23 Wadley consented to transport and back-up was unavailable. *See Heien*, 574 U.S. at 60-
24 61 (quoting *Brinegar v. United States*, 338 U.S. 160, 176 (1949)) (“To be reasonable is
25 not to be perfect, and so the Fourth Amendment allows for some mistakes on the part of
26 government officials, giving them ‘fair leeway for enforcing the law in the community’s
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protection”); *Allen*, 66 F.3d at 1056 (noting that police officers “need not avail themselves of the least intrusive means of responding to an exigent situation”).

The Court thus finds that the seizure fell within the bounds of an investigatory stop as opposed to an arrest requiring probable cause. Accordingly, it turns to the related question of whether SPD officers had reasonable suspicion to detain Wadley.

C. Reasonable Suspicion for Seizure

Detectives Canterbury and Radley must have had “reasonable suspicion supported by articulable facts that criminal activity ‘may be afoot[.]’” *U.S. v. Basher*, 629 F.3d 1161, 1165 (9th Cir. 2011) (citations omitted), to conduct a constitutional investigatory stop of Wadley under *Terry*. Wadley argues that, even assuming he was not subject to a *de facto* arrest, law enforcement lacked reasonable suspicion to stop him. (ECF No. 41 at 10.) As a result, he argues that fruits of that detention—including statements, substances found on his person, and the car key taken from his pocket—should be suppressed. (*Id.* at 11-12.) The government counters that cumulative facts prior to the seizure were enough to surpass the reasonable suspicion bar. (ECF No. 48 at 10-11.)

“In deciding whether a stop was supported by reasonable suspicion, the Court must consider whether ‘in light of the totality of the circumstances, the officer had a particularized and objective basis for suspecting the particular person stopped of criminal activity.’” *Basher*, 629 F.3d at 1165 (quoting *United States v. Berber-Tinoco*, 510 F.3d 1083, 1087 (9th Cir.2007)). Said otherwise, “[a]n investigatory stop must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity.” *U.S. v. Cortez*, 449 U.S. 411, 417 (1981). “The ‘reasonable suspicion’ necessary to justify such a *Terry* stop depends ‘upon both the content of information possessed by police and its degree of reliability.’” *Foster v. City of Indio*, 908 F.3d 1204, 1213-14 (9th Cir. 2018) (quoting *Alabama v. White*, 496 U.S. 325, 330 (1990)). In applying this standard, the Court considers the totality of the circumstances. See *id.* at 1214. And

1 “Fourth Amendment reasonableness is predominantly an *objective* inquiry.” *United States*
2 *v. Malik*, 963 F.3d 1014, 1015 (9th Cir. 2020), *cert. denied sub nom. Majid v. United*
3 *States*, 141 S. Ct. 1434, 209 L. Ed. 2d 155 (2021), *and cert. denied*, 141 S. Ct. 1721, 209
4 L. Ed. 2d 484 (2021) (citation omitted, emphasis in original). An officer may “rely on his
5 training and experience in drawing inferences from the facts he observes,” but “those
6 inferences must also be grounded in objective facts and be capable of rational
7 explanation.” *U.S. v. Rojas-Millan*, 234 F.3d 464, 469 (9th Cir. 2000).

8 But “[t]he reasonable-suspicion standard is not a particularly high threshold to
9 reach.” *United States v. Valdes-Vega*, 738 F.3d 1074, 1078 (9th Cir. 2013). It is a
10 “commonsense, nontechnical conception[] that deal[s] with ‘the factual and practical
11 considerations of everyday life on which reasonable and prudent [wo]men, not legal
12 technicians, act.’” *Id.* (quoting *Ornelas v. United States*, 517 U.S. 690, 695 (1996)). The
13 reasonable suspicion analysis “allows officers to draw on their own experience and
14 specialized training to make inferences from and deductions about the cumulative
15 information available to them that ‘might well elude an untrained person.” *United States*
16 *v. Arvizu*, 534 U.S. 266, 273 (2002) (quoting *Cortez*, 449 U.S. at 418). While a hunch is
17 not enough, reasonable suspicion is a lower bar than probable cause, and a much lower
18 bar than a preponderance of the evidence. *See id.* at 274.

19 Here, the Court finds that SPD officers had at least reasonable suspicion to detain
20 Wadley under *Terry*. Wadley argues, centrally, that Detective Canterbury’s suspicion was
21 a result of racial profiling based on the purported race of an unrelated robbery suspect.
22 (ECF No. 41 at 11.) Indeed, the Ninth Circuit has for good reason strongly “rejected
23 profiles that are ‘likely to sweep many ordinary citizens into a generality of suspicious
24 appearance.’” *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000)
25 (en banc) (quoting *United States v. Rodriguez*, 976 F.2d 592, 595-96 (9th Cir. 1992)). It
26 would be inaccurate, however, to frame the instant case as a one-dimensional reflection
27 of racial profiling. The evidence suggests that SPD officers grew suspicious of Wadley
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1 based on a number of relevant factors appropriate for consideration, which the Court
2 describes in roughly chronological order.

3 First, the position of the blue Toyota and its driver's behavior were unusual.
4 Detective Canterbury observed the sedan parked illegally, with its wheel on the curb.
5 (Government's Exh. 14.) While the skewed parking was not so far from parallel as to be
6 likely to attract attention by itself, Detective Canterbury observed the driver leaning
7 notably far back in his seat and watching the patrol car drive by slowly. Detective
8 Canterbury learned shortly thereafter that the registration on the vehicle had expired, and
9 thus that it was illegally on the roadway in the first place. By the time Detective Canterbury
10 looped back to the car to observe it further—within only a few minutes—the driver had
11 exited the car and was nowhere in sight. (Government's Exh. 2 at 17:11:11.) Detective
12 Canterbury was reasonable, at least, in wondering whether the driver's abrupt exit after
13 seeing a patrol car indicated their intention to avoid law enforcement officers.

14 Second, Wadley's odd behavior reasonably drew particular attention in the context
15 of the robbery. This is true even given that the parking violations gave Detective
16 Canterbury reason to seek more information about the car *without* considering the
17 robbery. The RTC Transit Center is located within half a mile of the Nugget, which is a
18 large casino with a high volume of people passing by or through the area surrounding it.
19 (Government's Exh. 1.) The robbery suspect was last seen travelling in the direction of
20 the casino. It was thus not improbable that the suspect would be in the vicinity. At the time
21 Detective Canterbury drove by the Toyota, he testified that he could only see enough of
22 Wadley's head to tell that he was a Black man with a flat-top hairstyle and that he was in
23 the general age-range of the robbery suspect—not particularly old, nor particularly young.
24 These limited physical characteristics were certainly not enough to make a reasonable
25 person believe that Wadley was connected to the robbery, especially because the robbery
26 suspect was specifically described as having a small afro. But Detective Canterbury has
27 never denied that he initially failed to see enough of the driver to make any conclusions.

1 (Government's Exh. 2 at 17:31:35-17:34:19.) Combined with the expired registration and
2 the crooked parking, he testified that he looped back to the Toyota to make contact with
3 the driver in part to seek further information. He could have reasonably wanted to get a
4 better view of the individual on the public street. And discovering Wadley's abrupt exit
5 increased Detective Canterbury's suspicion, separate and apart from any facts related to
6 physical appearance.

7 Third, the gun, Glock magazine, and pills in plain view in the Toyota could clearly
8 suggest that the driver was engaged in criminal activity. *See Basher*, 629 F.3d at 1165.
9 Detective Canterbury saw what he believed to be an AK-style weapon on the floorboard
10 of the car in plain view. (Government's Exh. 2 at 17:12:35-17:13:31.) He testified that the
11 weapon was immediately beside the driver seat, where the driver would have easy
12 access. The pills were in an unlabeled container, alongside marijuana shavings. Even
13 assuming that Detective Canterbury did not have reason to believe that the pills were
14 illegal narcotics based on their appearance alone, the haphazard placement of the pill
15 container, in combination with the gun and marijuana shavings and the driver's quick exit
16 after seeing him, suggested that Wadley might have been in the midst of illegal activity,
17 or otherwise trying to hide his participation in past illegal activity. Defendant makes much
18 of the fact that merely possessing a gun and having unidentified pills is not illegal. (ECF
19 No. 50 at 2.) But the Court does not find this argument persuasive; it overlooks the
20 commonsense nature of the reasonable suspicion inquiry. *See Valdes-Vega*, 738 F.3d at
21 1078 (describing the inquiry as a commonsense one). In a totality analysis, not every
22 element leading to reasonable suspicion of a criminal activity must be criminal by itself.

23 Fourth, an SPD K-9 alerted on the vehicle. *See, e.g., Illinois v. Caballes*, 543 U.S.
24 405 (2005) (holding that a dog sniff conducted during a lawful traffic stop, revealing only
25 contraband, does not violate the Fourth Amendment). For the purposes of this order, the
26 Court need not and does not make any finding as to the adequacy of the training and
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1 certification of Rox.²³ The Court only considers the K-9 alert to the limited extent that it
2 goes to the objective perception of the officers at the scene in a reasonable suspicion
3 analysis.²⁴ In particular, Detective Canterbury testified that, while he did not know exactly
4 which substances SPD K-9's are trained to alert on, he was aware that they are trained
5 to detect illegal narcotics and that they are not trained to detect marijuana. Rox alerted at
6 the passenger-side door of the Toyota. (Government's Exh. 2 at 17:18:11-17:20:05.)
7 Given the items in the car, the alert by a K-9 with which Detective Canterbury was familiar
8 could have reasonably added to the suspicion that the pills already in plain view were, in
9 fact, illegal.

10 Fifth, Detectives Canterbury and Radley reasonably believed that Wadley's
11 movements within the casino were unusual enough to suggest that he was further
12 attempting to avoid contact with police. Nugget security officer Trott informed the SPD
13 officers that Wadley was being tracked inside the casino and that he walked past the cage
14 and towards the "Victorian doors" at the north side of the casino. (*Id.* at 17:23:43-
15 17:25:49.) This suggested to the officers that Wadley walked back in the direction of the
16 car, saw the officers at the Toyota, and then decided to leave through an entirely different
17 part of the casino.

18
19 ²³In general, a positive alert by a *well-trained* narcotic detection dog creates
20 probable cause to search a vehicle. See *Florida v. Harris*, 568 U.S. 237, 248 (2013). Here,
21 because the Hearing made clear that there are remaining genuine factual disputes about
22 the adequacy of Rox's training, the Court does not base its ruling on a finding that there
23 was probable cause to search the Toyota as a result of the K-9 alert alone. Instead, it
24 applies a "flexible, common-sense standard" to consider the alert as one factor leading to
25 officers' decision to detain Wadley. See *Illinois v. Gates*, 462 U.S. 213, 238 (1983)
26 (describing the flexibility of probable cause standards).

27 ²⁴The parties largely did not brief the issue of the impact of the dog sniff on
28 reasonable suspicion if Rox was *not* "well-trained" but officers *believed* that she was.
Here, the Court notes only briefly that it does not evaluate probable cause or reasonable
suspicion in hindsight. See *Harris*, 568 U.S. at 249. See also, e.g., *Liberal v. Estrada*, 632
F.3d 1064, 1077 (9th Cir. 2011) ("Even if an officer makes a mistake of fact, that mistake
will not render a stop illegal, if the objective facts known to the officer gave rise to a
reasonable suspicion that criminal activity was afoot.").

1 Again, the Court notes that by the time Trott was describing Wadley's movements
 2 he also had communicated to the SPD officers that the driver of the car had been
 3 identified in all-green clothes. (*Id.* at 17:21:19-17:23:43.) This meant that the officers
 4 became aware that Wadley did not match the description of the robbery suspect. Audio
 5 suggests that Detective Canterbury began to operate on the belief that the Toyota driver
 6 was *not* related to the robbery. After hearing Trott's description, for example, he
 7 commented "ok, so I want to go talk to *that* guy." (*Id.*) But again, by this time there were
 8 enough facts to support independent reasonable suspicion that the driver of the Toyota
 9 was engaging in criminal activity, separate from the robbery.²⁵

10 For all of these reasons, the Court finds that Detectives Canterbury and Radley
 11 had reasonable, particularized suspicion to initiate the *Terry* stop.

12 **D. Discovery of Warrant and Probable Cause**

13 Given that SPD officers had reasonable suspicion to constitutionally stop Wadley,
 14 the most important subsequent development was the discovery of the warrant for
 15 Wadley's arrest during that stop. Officers took Wadley's ID information at the beginning
 16 of the seizure, which Detective Canterbury testified is consistent with basic SPD protocol.
 17 (*Id.* at 17:30:15-17:31:35.) At 4:34 p.m., immediately after the officers returned to the
 18 Toyota with Wadley, they received communication from dispatch advising of Wadley's
 19 extraditable felony warrant out of Mississippi. (Government's Ex. 5 at 4.) At 4:38 p.m.—
 20 four minutes later—the warrant was confirmed. (*Id.*)

21 The warrant is relevant both to Wadley's official arrest and to the car search. First,
 22 as to the arrest, the warrant—combined with the gun in view—created independent

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 25 ²⁵Defendant argues that Detective Canterbury lacked reasonable suspicion to
 26 identify him as the driver of the car, because he later admitted at the scene of the
 27 detention that he did not know if Wadley was the individual he saw in the driver's seat.
 28 (ECF No. 41 at 11.) But the Court credits Detective Canterbury's testimony that when he
 made those comments, he was confident that he was the driver and that Nugget security
 had effectively backtracked him.

1 probable cause to believe that Wadley was committing a crime: namely, the possession
2 of a firearm as a felon. The Court credits Detective Canterbury's testimony that the
3 warrant stood out to him specifically because it was for a parole violation, and he was
4 aware that a parole violation generally follows a felony conviction. Because there was a
5 gun in plain view in the car, he began to consider felon in possession of a firearm as a
6 standalone crime under investigation. In addition, a warrant itself is a "judicial mandate to
7 an officer to conduct a search or make an arrest, and the officer has a sworn duty to carry
8 out its provisions." *Utah v. Strieff*, 579 U.S. 232, 240 (2016) (quoting *United States v.*
9 *Leon*, 468 U.S. 897, 920 n. 21 (1984)). SPD officers thus had an independent duty to
10 investigate Wadley's warrant. Accordingly, there was probable cause to arrest Wadley
11 based on both the warrant itself and the presence of the firearm, apart from any search
12 of the vehicle.

13 Second, as to the car search, the discovery of the arrest warrant made the firearm
14 inside—which otherwise could have plausibly been legal—clear evidence of a crime. See
15 *Illinois v. Gates*, 462 U.S. 213, 238 (1983) (noting that probable cause to search exists
16 when there is a "fair probability that contraband or evidence of a crime will be found in a
17 particular place"). The automobile exception to the warrant requirement generally allows
18 police to search a car without a warrant when there is probable cause, given exigency
19 arising from the prospect that evidence or contraband may be removed from the scene
20 due to the vehicle's mobility. See, e.g., *California v. Acevedo*, 500 U.S. 565, 569 (1991);
21 *Carroll v. United States*, 267 U.S. 132, 151 (1925).

22 Defendant argues that officers illegally frisked him during his seizure, and that the
23 car key—and the evidence found in the car—must be suppressed as a result of these
24 warrantless searches.²⁶ (ECF No. 41 at 14.) But the circumstances of the frisk and the

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27 ²⁶The reasonableness of a stop and a frisk under *Terry* must be analyzed
28 separately; the elements of each must be considered independently. See *United States*
v. Thomas, 863 F.2d 622, 628 (9th Cir. 1988).

1 items retrieved are largely irrelevant. Ultimately, the car search was *not dependent* on the
2 car key. Because Wadley was not the registered owner of the car, and he had been on
3 the phone with a friend who ostensibly owned it, officers could have reasonably been
4 especially concerned that the Toyota might be moved. See *Carroll*, 267 U.S. at 151.
5 Accordingly, because the automobile exception applied, officers could have searched the
6 car without relying on the fruits of any frisk—whether or not that frisk exceeded the scope
7 of *Terry*. And the Court has already set aside, to Wadley’s benefit, the possibility that the
8 K-9 alert had provided earlier, independent probable cause to search the Toyota before
9 he was seized. So in sum, the Court finds that the search of the Toyota was also
10 constitutional.

11 **E. Attenuation and Inevitable Discovery**

12 Even if the Court were to find that officers lacked reasonable suspicion to seize
13 Wadley, the attenuation and inevitable discovery doctrines apply to make the evidence in
14 question admissible.

15 The government argues, and the Court agrees, that Defendant’s warrant broke the
16 causal chain between any arguably unlawful stop and the discovery of incriminating
17 evidence. (ECF No. 48 at 17.) Under the attenuation doctrine, “[e]vidence is admissible
18 when the connection between unconstitutional police conduct and the evidence is remote
19 or has been interrupted by some intervening circumstance, so that ‘the interest protected
20 by the constitutional guarantee that has been violated would not be served by
21 suppression of the evidence obtained.’” *Strieff*, 579 U.S. at 238 (quoting *Hudson v.*
22 *Michigan*, 547 U.S. 586, 593 (2006)). Courts consider three factors: “(1) the ‘temporal
23 proximity’ between the unconstitutional conduct and the discovery of [the] evidence”; (2)
24 “the presence of intervening circumstances”; and (3) “the purpose and flagrancy of the
25 official misconduct.” *Id.* at 239-41.

26 The government concedes that the first *Strieff* factor, temporal proximity, weighs
27 against a finding of attenuation because the evidence was obtained in close proximity to
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1 Wadley's detention. (ECF No. 48 at 17.) However, the discovery of the outstanding arrest
2 warrant weights the second factor, the presence of intervening circumstances, in the
3 government's favor. See *Strieff*, 279 U.S. at 239-40 (finding that an outstanding warrant
4 was a sufficient intervening event to break the causal chain originating with
5 unconstitutional conduct, because "the warrant was valid, it predated [the] investigation,
6 and it was entirely unconnected with the stop"). In *Strieff*, the Supreme Court emphasized
7 that upon discovery of the warrant, the officers had an *obligation* to arrest. See *id.* at 240.
8 As in *Strieff*, the Mississippi warrant this case was valid, as officers took steps to confirm
9 at the scene, it predated the investigation, and it was unconnected to the stop. The Court
10 is not persuaded by Defendant's argument that the attenuation doctrine does not apply
11 to the search which occurred here because that search was not the direct result of
12 Wadley's arrest. (ECF No. 50 at 4-6.) It is true, as Defendant notes in his reply, that the
13 attenuation cases cited by the government largely address circumstances under which
14 the relevant search was conducted *incident* to an arrest, rather than separately from the
15 arrest. (*Id.*) See, e.g., *Strieff*, 279 U.S. at 240-42; *United States v. Chew*, 802 F. App'x
16 313, 314 (9th Cir. 2020). But this does not mean, as Defendant suggests, that "nothing
17 about the existence of an arrest warrant authorized officers to search the vehicle." (ECF
18 No. 50 at 5.) Here, as the Court has already discussed, the discovery of the valid warrant
19 meant that items in plain view in the car became themselves evidence of a new crime.
20 The search of the car was not the result of separate unconstitutional conduct, but rather
21 part of the chain of events reasonably initiated on its own accord by the valid arrest
22 warrant.

23 The third factor, the purpose and flagrancy of official misconduct, also weighs in
24 favor of the government. See *Strieff*, 279 U.S. at 239 (describing this factor as particularly
25 significant). As the Court has already discussed, factors impacting Detectives Canterbury
26 and Wadley's decisions during the seizure included (1) the absence of other backup SPD
27 units; (2) initial concern that Wadley might be armed; and (3) Wadley's consent to
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1 transport back to the Toyota, consent to the search of his bag, and consent to the search
2 of his person for the car key. Given these facts, even assuming an alternative finding that
3 Officers' use of force, frisks, and liberty restrictions crossed the line into
4 unreasonableness, that conduct does not reflect a *flagrant* or *purposeful* violation. See
5 *Strieff*, 279 U.S. at 242 (finding that there was no flagrant violation because there was no
6 indication of systemic or recurrent police misconduct).

7 Finally, the Court finds that rationale of the inevitable discovery doctrine bolsters
8 the government's positions on the Mississippi warrant and attenuation. The inevitable
9 discovery doctrine, which supports the broader deterrence purpose of the exclusionary
10 rule, allows for admission of evidence when the police "would have obtained that evidence
11 if no misconduct had taken place." *Nix v. Williams*, 467 U.S. 431, 444 (1984). The
12 exception is intended to ensure that the government is not put in a worse position than it
13 would have been absent any violation. See *id.* at 443-44. Here, the blue Toyota was
14 parked illegally and had expired registration. At the very least after his arrest for an
15 outstanding warrant, SPD would have towed the Toyota and conducted an inventory
16 search. Such a search would have occurred regardless of whether there was probable
17 cause to search the car at the scene. According to the SPD Vehicle inventory and tow
18 policy, "if the driver of a motor vehicle has been arrested, the vehicle shall usually be
19 impounded" and an inventory report form completed.²⁷ (Government's Exh. 8 at 3.) In
20 sum, the Court finds that the valid warrant for Wadley's arrest changed the nature of the
21 investigation, even if violations occurred.

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24 ²⁷Moreover, the Toyota could likely have been towed and inventoried before
25 Wadley was even identified or seized because SPD officers have discretion to impound
26 vehicles for registration violations or when a vehicle poses a threat to public health or
27 safety, and an inventory form must also be completed in these circumstances. (*Id.* at 4).
28 However, given that the car was not registered in his name, it is not as clear that the items
inside would have inevitably been connected to Wadley if officers never made contact
with him. Because of this uncertainty, the Court does not rely on or base its findings on
this narrower application of the inevitable discovery doctrine.

1 **IV. CONCLUSION**

2 The Court notes that the parties made several arguments and cited to several
3 cases not discussed above. The Court has reviewed these arguments and cases and
4 determines that they do not warrant discussion as they do not affect the outcome of the
5 issues before the Court.

6 It is therefore ordered that Wadley's motion to suppress (ECF No. 41) is denied.

7 DATED THIS 5th Day of June 2024.

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A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE